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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,914	01/16/2004	George Joseph Oswald	49239.0001	7068

57600 7590 10/17/2007  
HOLLAND & HART LLP  
P.O. Box 11583  
60 E. South Temple, Suite 2000  
Salt Lake City, UT 84110

EXAMINER
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HU, KANG

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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10/17/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/758,914	<b>Applicant(s)</b> OSWALD, GEORGE JOSEPH	
	<b>Examiner</b> Kang Hu	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 September 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7, 9-20, 22-32 and 34-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-20, 22-32 and 34-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### DETAILED ACTION

1. The following office action is in response to the amendment filed on 9/17/2007.

Currently claims 8, 21 and 33 have been cancelled. Claims 1-7, 9-20, 22-32 and 34-42 are currently pending.

#### *Continued Examination Under 37 CFR 1.114*

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/17/2007 has been entered.

#### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7, 9-20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masaya et al. (US 2005/0009611 A1).

Re claims 1-7, 9-20 and 22, Masaya et al. disclose the claimed features, as set forth in the previous office action, with the exception of the newly added features of configuring the framework of interconnected members to collapse from a non-collapsed position into a collapsed

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position, the collapsed position having a vertical height of no more than twelve inches. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the framework collapsible into a portable unit, since it has been held that making an old device portable or movable without producing any new and unexpected result involves only routine skill in the art. In re Lindberg, 93 USPQ 23 (CCPA 1952). Re claims 2-7 and 9-17, Masaya does not explicitly state how the pedal mounts and the adjustable controller mount and etc. can be adjusted. However as can be seen in the picture, such adjustable to different degrees of freedom would be easily accomplished. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make such minor adjustments, by adding panels and platforms on to the frame of the simulated cockpit and adjusting it to the likeness of the player since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. In re Stevens, 101 USPQ 284 (CCPA 1954).

5. Claims 23-32 and 34-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masaya et al. (US 2005/0009611 A1) in view of Brasseal et al. (US 2004/0129489 A1). Masaya et al. disclose the claimed features, as set forth in the previous office action and as discussed above, with the exception of the specific structural construction. Such body structure is enclosed by Brasseal in the invention of a sand rail vehicle, where such construction is built to protect the passenger from harm and at the same time can be used to mount different accessories to provide a more realistic simulation experience for the player. It would have been obvious to one having ordinary skill in the art at the time the invention was made to duplicate such design and form,

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since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

***Conclusion***

***Response to Arguments***

6. Applicant's arguments filed 9/17/07 have been fully considered but they are not persuasive. The newly added feature of collapsing the cage has been discussed in the above office action.

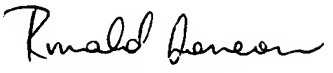
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kang Hu whose telephone number is (571)270-1344. The examiner can normally be reached on 8-5 (Mon-Thu).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KH/  
Kang Hu  
October 14, 2007

  
Ronald Laneau  
Trainer AU 3714

10/15/07

**RONALD LANEAU**  
**PRIMARY EXAMINER**